

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL LEE CARPENTER,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS,

Defendant.

CASE NO. 3:22-cv-05020-RJB-JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of Chief Magistrate Judge J. Richard Creatura. Dkt. 7. The Court has reviewed the R&R and the remaining file, and, for the reasons set forth in this Order, the R&R should be adopted and this case dismissed without prejudice.

I. BACKGROUND

On January 7, 2022, Plaintiff, who is proceeding *pro se*, initiated this 42 U.S.C. § 1983 civil rights lawsuit while detained at the Thurston County Jail in Olympia, Washington, by filing a motion to proceed *in forma pauperis* (“IFP”) and a proposed complaint. Dkt. 1. It was

1 referred to Chief Magistrate Judge Creatura, who reviewed the filings, and directed Plaintiff to
2 show cause or amend his complaint. Dkt. 4. Plaintiff responded with a proposed amended
3 complaint on January 26, 2022. Dkt. 5. On February 16, 2022, Magistrate Judge Creatura issued
4 a second order to show cause or amend instructing Plaintiff to respond by March 18, 2022, and
5 notifying him that failure to do so may result in dismissal of this matter without prejudice.
6 Plaintiff did not respond to the order to show cause and, on April 6, 2022, Magistrate Judge
7 Creatura issued the pending R&R recommending dismissal without prejudice. Dkt. 7. The clerk
8 sent Plaintiff a copy of the pending R&R to his address on file, but it was returned as “Inmate No
9 Longer Here.” Dkt. 11. Plaintiff later notified the Court of his updated mailing address. Dkt.
10 12. The Court renoted the pending R&R and ordered that Plaintiff be sent a copy of the Second
11 Order to Show Cause and the R&R at his updated address. Dkt. 13. Plaintiff has not responded
12 to those orders to date.

13 II. DISCUSSION

14 For the reasons set forth in the R&R, this case should be dismissed without prejudice for
15 failure to prosecute and to comply with a court order. The Second Order to Show Cause explains
16 the deficiencies in Plaintiff’s amended proposed complaint and why it fails to state a claim. Dkt.
17 6. It also provided Plaintiff with the opportunity to file an amended proposed complaint by
18 March 18, 2022. Notwithstanding that instruction and the extension provided for by the Order
19 Renoting the Report and Recommendation (Dkt. 13), Plaintiff did not respond. Therefore,
20 dismissal without prejudice is warranted.

21 III. ORDER


22 Therefore, it is hereby ORDERED that:

- 23 • The Report and Recommendation (Dkt. 7) **IS ADOPTED**;

- This case **IS DISMISSED** without prejudice.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 5th day of July, 2022.

A handwritten signature in black ink, reading "Robert J. Bryan", written over a horizontal line.

ROBERT J. BRYAN
United States District Judge